IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 23110-M of 2005

Pritam Singh

.... PETITIONER

Versus

Ravinder Kaur and another

..... RESPONDENTS

Present: Mr. N.K. Sanghi, Advocate,
for the petitioner.
Mr. Kapil Aggarwal, Advocate,
for the respondents.

Crl. Misc. No. 48339-M of 2005

Ravinder Kaur and another

.... PETITIONERS

Versus

Pritam Singh

..... RESPONDENT

Present: Mr. Kapil Aggarwal, Advocate,
for the petitioners.
Mr. N.K. Sanghi, Advocate,
for the respondent.

Crl. Misc. No. 62990-M of 2006

Pritam Singh

.... PETITIONER

Versus

Ravinder Kaur and another

..... RESPONDENTS

DATE OF DECISION : 17.01.2007

Present: Mr. N.K. Sanghi, Advocate,
for the petitioner.
Mr. Kapil Aggarwal, Advocate,
for the respondents.

This order shall dispose of the following three petitions, filed

under Section 482 of the Code of Criminal Procedure (hereinafter referred to as `the Code'), arising from an application filed by Ravinder Kaur (wife) and Mandeep Kaur alias Amandeep Kaur (minor daughter) against Pritam Singh (husband) for grant of maintenance allowance under Section 125 of the Code.

(a) Crl. Misc. No. 23110-M of 2005 filed by the husband for setting aside the order dated 16.11.2004, passed by Chief Judicial Magistrate, Ferozepur, awarding Rs. 1,000/- per month to the wife and Rs. 700/- per month to the minor daughter as interim maintenance allowance, and for setting aside the order dated 4.1.2005, passed by Additional Sessions Judge, Fast Track Court, Ferozepur, whereby revision filed by the husband against the aforesaid order dated 16.11.2004 has been dismissed.

(b) Crl. Misc. No. 48339-M of 2005, filed by the wife and minor daughter for modification of the order dated 9.6.2005, passed by Additional Sessions Judge, Ferozepur, whereby interim maintenance allowance granted to the wife and minor daughter has been enhanced to Rs. 1,500/- and Rs. 1,000/- per month, respectively, with a prayer to further enhance the amount of maintenance to Rs. 3,000/- per month to each of them.

(c) Crl. Misc. No. 62990-M of 2006 filed by the husband for setting aside the order dated 9.6.2005, passed by Additional Sessions Judge, Ferozepur.

2. I have heard counsel for the parties and gone through the contents of the petitions as well as the impugned orders.

3. In this case, marriage of Pritam Singh and Ravinder Kaur was solemnized on 16.2.1997. Out of this wed lock, one daughter Mandeep Kaur was born on 28.9.1998. It is alleged by Ravinder Kaur that her husband and his family members were not satisfied with the dowry articles given in the marriage and on that account, she was being harassed, tortured and beaten

on several times by her husband and his other family members. It is further alleged that she was also harassed and tortured for not giving birth to a male child. She was forced to abort her pregnancy twice after determining the female fetus in the year 2000 and 2002. It is further alleged by the wife that due to the constant harassment and torture, her father went into depression and ultimately, he died on 18.5.2002. It is further alleged that the wife and minor daughter were thrown out of the matrimonial home by the husband and his family members, whereupon FIR No. 15 dated 1.2.2004 under Sections 498-A/406 IPC was registered on the complaint of the wife against the husband and his family members. When the wife and her minor daughter were unable to maintain themselves and were living at the mercy of her mother, they filed an application under Section 125 of the Code for grant of maintenance allowance at the rate of Rs. 3,000/- per month to each of them from the date of filing of the application. It was averred that the husband owns ten killas of land, which comes to his share and he also cultivates land of other persons on lease. He also owns a tractor and his monthly income was stated to be Rs. 40,000/-.

4. In the reply, the husband took the plea that the wife knows the work of stitching and embroidery and is earning Rs. 3,000/- per month, therefore, she is in a position to maintain herself and her minor daughter. He denied that his monthly income is Rs. 40,000/-, as alleged. However, he averred that he owns four acres of land, which was pledged by him in favour of a bank at the time of obtaining loan for the purpose of sending his brother abroad.

5. The trial court, after taking into consideration the various documents placed on record by both the parties, came to the conclusion that the husband is owning four killas of land and was having income of Rs. 80,000/- per annum. It was further found that the husband could not prove that the wife was doing the work of stitching or embroidery. It was further held that the minor daughter is school going child, therefore, the wife requires proper maintenance for her fee, dress, milk, medicine etc. Taking

into consideration all these facts, the trial court awarded interim maintenance allowance at the rate of Rs. 1,000/- per month to the wife and Rs. 700/- per month to the minor daughter, from the date of application.

6. Against the above said order, the husband as well as the wife filed two separate revision petitions. Both the petitions were dealt by two separate courts. The revision petition filed by the husband was dismissed vide order dated 4.1.2005 and the revision petition filed by the wife was allowed vide order dated 9.6.2005, and the amount of interim maintenance allowance granted to the wife and minor daughter were enhanced to Rs. 1,500/- and Rs. 1,000/- per month, respectively. Against these orders, these three petitions have been filed.

7. Counsel for the petitioner-husband contends that the amount of maintenance awarded to the wife and the minor daughter is excessive and the same has been awarded by the court below without there being any evidence with regard to the income of the husband. Though it is admitted that the husband is owning four acres of land, but it was submitted that the said land was mortgaged with the bank in order to obtain loan for sending his brother to Germany. Counsel further contends that the husband has also to repay the loan amount.

8. On the other hand, counsel for the respondents-wife and minor daughter submits that as per the application for bail filed by the husband in FIR No. 15 dated 1.2.2004, registered at Police Station City Ferozepur, in the court of Chief Judicial Magistrate, Ferozepur, copy of which has been annexed with Crl. Misc. No. 48339-M of 2005 as Annexure P-9, it has been stated that he owns 32 killas of land. Counsel further submits that now the minor child is aged about 8 years and is studying in BSMS Senior Secondary School and the wife requires proper maintenance for her fee, dress, milk, medicine etc. She is also providing her private coaching. Counsel further contends that the wife, after the death of her father, is solely dependent upon her mother and is living on her mercy. She has no source of income. Therefore, counsel contends that the amount of interim

maintenance allowance awarded to them by the courts below needs enhancement.

9. After hearing the arguments of learned counsel for both the parties, I do not find any merit in the petitions filed by the husband. However, the petition, filed by the wife and minor daughter deserves to be partly allowed. Keeping in view the fact that the husband has been recorded as owner of 4 acres of land in the revenue record and that the family is owning about 32 acres of land, the income of the husband, as determined by the courts below, cannot be said to be excessive at all. On the other hand, it has been found as a fact by the courts below that the wife has no source of income and she is unable to maintain herself and her minor daughter. Undisputedly, the wife along with her minor daughter is living at the mercy of her mother. She has reasonable excuse to live with her mother as she was thrown out of matrimonial home after causing harassment by the husband and his family members. In this regard, a criminal case is still pending, in which charge has been framed against the husband and father-in-law. Undisputedly, the minor daughter is aged about 8 years and is studying in school. Keeping in view the status of the family and the fact that the wife has to spend substantial amount on the education, clothing and medicines etc. of her minor daughter, amount of Rs. 1,000/- awarded to her, in my opinion, is inadequate. With this amount, her expenses cannot be met. Therefore, the amount of maintenance allowance awarded to the minor daughter is enhanced from Rs. 1,000/- to Rs. 1,500/- per month. As far as the amount of maintenance awarded to the wife at the rate of Rs. 1,500/- is concerned, I do not find any ground for further enhancement of the same at this stage.

10. Consequently, Crl. Misc. No. 23110-M of 2005 and 62990-M of 2006, filed by the husband, are dismissed and Crl. Misc. No. 48339-M of 2005, filed by the wife and minor daughter is partly allowed to the extent that the maintenance allowance awarded to the minor daughter is enhanced from Rs. 1,000/- to Rs. 1,500/- per month. The respondent-husband is liable

to pay the enhanced amount of maintenance from the date of filing of the petition in this court.

January 17, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**